

Municipality of Lakeshore Committee of Adjustment Report

Growth & Sustainability

Community Planning



To: Chair and Members of Committee of Adjustment
From: Ian Search, BES, Planner I
Date: January 13, 2025
Subject: Minor Variance Application A/33/2024 – 313 Russel Woods Drive

Recommendation

Approve minor variance application A/33/2024, 313 Russel Woods Drive, to permit the following relief for the development of a new dwelling on the Subject Property:

Relief from Section 8.1 Urban Residential Zone Regulations to permit a maximum lot coverage of 40% whereas a maximum lot coverage of 35% is permitted in the Residential – Low Density (R1) zone.

Include the following Notice in the Notice of Decision:

The low-lying nature of the roadway may result in excess water over the road during a 1:100-year flood event, to an extent that the subject property may be inaccessible to people and vehicles (including emergency services) during times of flooding hazards.

Background

The Municipality of Lakeshore has received a minor variance application for a property located on the south side of Russel Woods Drive, west of Elmgrove Drive, known municipally as 313 Russel Woods Drive in the Municipality of Lakeshore (Appendix A). The subject property is zoned “Residential – Low Density” (R1) in the Lakeshore Zoning By-law and designated “Residential” in the Lakeshore Official Plan.

The subject property is approximately 0.226 acres (914 m²) in area with approximately 21.4 metres (70.2 feet) of frontage along Russel Woods Drive.

The Applicant is seeking the following relief from the Lakeshore Zoning By-law (2-2012) for the development of a new dwelling on the Subject Property (Appendix C):

- Relief from Section 8.1 Urban Residential Zone Regulations to permit a maximum lot coverage of 40%, whereas a maximum lot coverage of 35% is permitted in the Residential – Low Density (R1) zone.

The application notes that the reason for the minor variance is for the development of a new dwelling on the subject property with a main floor that is more conducive to the lifestyle needs of the owner. The Lakeshore Building Department issued a demolition permit in April 2024 for an existing dwelling on the property, with the application noting that the dwelling was damaged due to fire. The applicant needs to contact Lakeshore Building Department to complete the required inspections as part of the demolition permit process.

Surrounding Land Uses	North: low-density residential South: low-density residential East: low-density residential West: low-density residential
Official Plan Land Use Designation	Lakeshore Official Plan: Residential County of Essex Official Plan: Primary Settlement Area
Zoning	“Residential – Low Density” (R1)
Relief from Zoning By-law requested	The following relief for the development of a new dwelling on the subject property: • Relief from Section 8.1 Urban Residential Zone Regulations to permit a maximum lot coverage of 40%, whereas a maximum lot coverage of 35% is permitted in the Residential – Low Density (R1) zone.

Comments

Section 45(1) of the *Planning Act* gives the authority of granting minor relief from the provisions of the Zoning By-law to the Committee of Adjustment. Such relief can only be granted if the Minor Variance passes all four tests. If the Committee is not satisfied on all four tests, then the Minor Variance cannot be approved.

County of Essex Official Plan

The subject property is designated “Primary Settlement Area” in the County of Essex Official Plan. There are no issues of County significance raised by the minor variance application. Subsection 3.2.4.1 h) of the County of Essex Official Plan states “All types of land use are permitted within the “Settlement Areas” designation subject to the specific land use policies of the local Official Plans.” A single detached dwelling is permitted on lands designated “Residential” in the Lakeshore Official Plan.

The subject property is located on a municipal road. No comments from the County of Essex have been received as of the writing of this report.

Lakeshore Official Plan

As previously mentioned, a single detached dwelling is permitted on lands designated “Residential” in the Lakeshore Official Plan.

Subsection 4.2.1 provides community design policies in the Lakeshore Official Plan. Specifically, subsection 4.2.1 a) states that: *The Town will seek to maintain and improve the physical design characteristics of the Settlement Areas in the context of new and existing development, and stress a generally high quality of community design and built form.* A similar policy, subsection 4.2.1 b) i), states that *“through the review of development applications, including plans of subdivision, site plans and other development proposals, the Municipality: will ensure that new development is designed in keeping with the traditional character of the Settlement Areas in a manner that both preserves their traditional community image and enhances their sense of place within the Municipality.”*

Comment: The proposal will not negatively impact the physical design characteristics of the neighbourhood. According to the site plan drawing submitted with the application, the proposed dwelling will comply with the minimum front, rear and side yard setbacks, and minimum landscaped open space requirements for the R1 zone.

The subject property is located in the Lake St. Clair Shoreline Floodprone Area overlay of the Lakeshore Official Plan and is located within the Essex Region Conservation Authority (ERCA) limit of regulated area. ERCA commented on the development proposal stating: *We note that the low-lying nature of the roadway may result in excess water over the road during a 1:100 year flood event. The Municipality must confirm, through applicable emergency services (i.e. fire, police, etc.), that they have the ability to safely access this area during a 1:100 year flood event, in order to fulfill the Municipality's responsibilities under Section 5.2.8 of the Provincial Planning Statement 2024.* ERCA was contacted for additional comment and stated that they estimate there would be approximately 0.4 (1.31 feet) to 0.5 metres (1.64 feet) of water over the roadway during a one in one-hundred-year flood event. This information was shared with the Lakeshore Fire Chief who commented that a potential inundation of 0.5 metres would not impact fire service from accessing the property.

Subsection 5.4.1.3 j) states that: *There are areas of extensive development located within the Lake St. Clair Shoreline Floodprone Area. In these areas, a reasonable compromise will be made between the extent of the hazard and the continued use and future development of the area. This situation is particularly applicable to the Urban Areas, Hamlet Areas and Waterfront Residential Areas, as set out on Schedule “A”. The Zoning By-Law may establish specific zones to address existing development located within the Lake St. Clair Shoreline Floodprone Area. There is no public obligation to purchase any area within the Lake St. Clair Shoreline Floodprone Area.*

Comment: The subject property previously supported a dwelling that is being replaced on a fully developed street in an Urban Area. The Zoning By-law (2-2012) has this property and others on the street zoned R1 to permit a low-density residential use. It is recognized that there is no immediate remedy to the low-lying nature of this roadway or other existing roadways in fully developed urban areas that are impacted by the one in

one-hundred-year flood event. In this case a reasonable compromise can be made to permit the development of a new dwelling on the property that meets the lifestyle needs of the owner and replaces a previous dwelling that was damaged due to fire. However, a notice on any minor variance approval must be included to make the applicant/owner aware that: *the low-lying nature of the roadway may result in excess water over the road during a 1:100-year flood event, to an extent that the subject property may be inaccessible to people and vehicles (including emergency services) during times of flooding hazards.*

Zoning By-law

The general intent and purpose of the regulation limiting the maximum lot coverage of the property to 35% is to ensure enough outdoor amenity space is provided on the lot, as well as sufficient drainage opportunity.

Comment: As previously noted, the development will meet the minimum required setbacks in the R1 zone. As such, the rear yard space will be sufficient for outdoor amenity space on the property. The Team Leader of Development Engineering and Approvals is willing to support the minor variance application as a one-time approval considering the stormwater management system.

Minor in Nature

There are no land use compatibility issues or impacts anticipated from permitting the desired relief for the reasons already mentioned in the report. The requested relief is considered a minor deviation from the Zoning By-law to achieve a development design that is more conducive to the lifestyle needs of the owner.

Desirability and Appropriateness

The requested relief is considered desirable for the appropriate development of the property. No impacts are anticipated to the neighbourhood in terms of uniformity of appearance and the appearance of the streetscape. The proposed development will comply with required setbacks and is therefore considered to be compatible with its surroundings, including adjacent properties.

Conclusion

It is the opinion of the Planner that the requested relief passes the four tests prescribed under Section 45 (1) of the *Planning Act*.

- i. The variance would be “minor” in nature.
- ii. It would be desirable for the appropriate development or use of the land, building or structure.
- iii. It would maintain the general intent and purpose of the Official Plan.
- iv. It would maintain the general intent and purpose of the Zoning By-law.

It is recommended that the Committee of Adjustment include the following Notice in the Decision:

The low-lying nature of the roadway may result in excess water over the road during a 1:100-year flood event, to an extent that the subject property may be inaccessible to people and vehicles (including emergency services) during times of flooding hazards.

Others Consulted

Comments from ERCA related to flooding have already been addressed in this report. In their comments ERCA also states: *it is recommended that the Municipality consider the current state of the existing development with respect to existing stormwater management infrastructure. Additionally, with respect to the request for relief from maximum lot coverage standards, it is recommended that the determination of any potential impacts/no negative impacts to the stormwater management system be to the satisfaction of the Municipal Engineering/Public Works/Infrastructure Services department.* Comments from the Team Leader of Development Engineering and Approvals are shared below in relation to this issue. ERCA notes that the property owner will be required to obtain a Permit from their office prior to any construction or site alteration or other activities affected by Section 28 of the Conservation Authorities Act. The full comment from ERCA can be found in Appendix E.

The Team Leader of Development Engineering and Approvals comments that the minor variance is supported as one-time approval and that future approvals may not be granted for increased lot coverage. It should be noted that minor variances related to modest increases in lot coverage standards are likely immaterial with respect to the stormwater management design. However, over time (and if improperly monitored), the cumulative affects of increased lot coverage (whether applied over an area or through frequent change requests approved through the Committee of Adjustment) may have a cumulative impact on the stormwater management system and further create adverse impacts on the surrounding drainage system. The full comment from them can be found in Appendix F.

The Fire Department states that they have no comments on the development proposal as presented at this time.

The Building Department states that they have no concerns with the development proposal at this time.

Public Notice Circulation

Notice of Public Meeting and information regarding the requested minor variance application was sent to all property owners within 60 metres of the subject property. At the time of writing, no written comments were received.

Attachment(s):

Appendix A – Aerial Map
Appendix B – Drawing
Appendix C – Drawing with Aerial
Appendix D – Photos
Appendix E – ERCA Comment
Appendix F – Engineering Comment

Prepared by:



Ian Search, BES
Planner I

Report Approval Details

Document Title:	A-33-2024 Report.docx
Attachments:	<ul style="list-style-type: none">- Appendix A - Aerial Map.pdf- Appendix B - Drawing.pdf- Appendix C - Drawing with Aerial.pdf- Appendix D - Photos.pdf- Appendix E - ERCA Comment.pdf- Appendix F - Engineering.pdf
Final Approval Date:	Jan 14, 2025

This report and all of its attachments were approved and signed as outlined below:

Urvi Prajapati - Jan 14, 2025 - 11:18 AM

Daniel Mercer - Jan 14, 2025 - 12:38 PM

Tammie Ryall - Jan 14, 2025 - 10:40 PM